

THE HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
Plaintiff,  
vs.  
MOTOROLA, INC., et al.,  
Defendants.  
MOTOROLA MOBILITY, INC., et al.,  
Plaintiffs,  
vs.  
MICROSOFT CORPORATION,  
Defendants.

Case No. C10-1823-JLR

DECLARATION OF CHRISTOPHER  
WION IN SUPPORT OF  
MICROSOFT'S OPPOSITION TO  
MOTOROLA'S *DAUBERT* MOTION  
TO EXCLUDE CERTAIN TESTIMONY  
OF PLAINTIFF'S EXPERTS DRS.  
LYNDE, MURPHY, AND SIMCOE

NOTED: September 10, 2012

I, Christopher Wion hereby declare as follows:

1. I am an attorney at the law firm of Calfo Harrigan Leyh & Eakes LLP, one of the law firms representing Microsoft Corporation ("Microsoft") in the above-captioned matter, and have personal knowledge of the facts stated herein.

DECLARATION OF CHRISTOPHER WION IN  
SUPPORT OF MICROSOFT'S OPPOSITION TO  
MOTOROLA'S *DAUBERT* MOTION TO  
EXCLUDE CERTAIN TESTIMONY OF  
PLAINTIFF'S EXPERTS DRS. LYNDE,  
MURPHY, AND SIMCOE - 1

LAW OFFICES  
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999 THIRD AVENUE, SUITE 4400  
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TEL. (206) 623-1700 FAX. (206) 623-8717

1           2.     Attached hereto as Exhibit 1 (and filed UNDER SEAL) is a true and correct  
2 copy of the July 24, 2012 opening expert report of Kevin M. Murphy, submitted in the above-  
3 captioned case.

4           3.     Attached hereto as Exhibit 2 (and filed UNDER SEAL) is a true and correct  
5 copy of the July 24, 2012 opening expert report of Matthew R. Lynde, submitted in the above-  
6 captioned case.

7           4.     Attached hereto as Exhibit 3 (and filed UNDER SEAL) is a true and correct  
8 copy of the July 24, 2012 opening expert report of Timothy S. Simcoe, submitted in the above-  
9 captioned case.

10          5.     Attached hereto as Exhibit 4 is a true and correct copy of the August 21, 2012  
11 deposition transcript of Richard J. Holleman, taken in the above-captioned case.

12          6.     Attached hereto as Exhibit 5 is a true and correct copy of an August 6, 2012  
13 IEEE press release, produced in the above-captioned case at MS-MOTO\_1823\_00005245695-  
14 6.

15          7.     Attached hereto as Exhibit 6 (and filed UNDER SEAL) is a true and correct  
16 copy of the August 22, 2012 deposition transcript of Kevin M. Murphy, taken in the above-  
17 captioned case.

18          8.     Attached hereto as Exhibit 7 (and filed UNDER SEAL) is a true and correct  
19 copy of the August 29, 2012 deposition transcript of Timothy S. Simcoe, taken in the above-  
20 captioned case.

21          9.     Attached hereto as Exhibit 8 (and filed UNDER SEAL) is a true and correct  
22 copy of the August 31, 2012 rough deposition transcript of Matthew R. Lynde, taken in the  
23 above-captioned case.

1           10. Attached hereto as Exhibit 9 is a true and correct copy of an April 23, 2012  
2 printout of a web page at <http://www.mpegla.com/main/programs/AVC/Pages/Licensees.aspx>  
3 entitled "AVC/H.264 Licensees," produced in the above-captioned case at MS-  
4 MOTO\_1823\_00004073175-89.

5           11. Attached hereto as Exhibit 10 (and filed UNDER SEAL) is a true and correct  
6 copy of an undated document entitled "ETSI IPR Policy Reform Minimum Change Optimum  
7 Impact Proposal by: Ericsson, Motorola, and Nokia," produced in the above-captioned case at  
8 MOTM\_WASH1823\_0421001-13.

9           12. Attached hereto as Exhibit 11 (and filed UNDER SEAL) is a true and correct  
10 copy of the August 10, 2012 rebuttal expert report of Roger S. Smith, submitted in the above-  
11 captioned case.

12           13. Attached hereto as Exhibit 12 is a true and correct copy of an article by Joseph  
13 Farrell et al. entitled "Standard setting, patents, and hold-up", 74 *Antitrust Law Journal* 603  
14 (2007), produced in the above-captioned case at MOTM\_WASH1823\_0492589-656.

15           14. Attached hereto as Exhibit 13 is a true and correct copy of an article by Mark A.  
16 Lemley and Carl Shapiro entitled "Patent Holdup and Royalty Stacking," 85 *Texas Law*  
17 *Review* 1991 (2007), produced in the above-captioned case at MOTM\_WASH1823\_0093017-  
18 75.

19           15. Attached hereto as Exhibit 14 is a true and correct copy of an article by Daniel  
20 G. Swanson and William J. Baumol entitled "Reasonable and Nondiscriminatory (RAND)  
21 Royalties, Standards Selection, and Control of Market Power", 73 *Antitrust Law Journal* 1  
22 (2005), produced in the above-captioned case at MS-MOTO\_1823\_00000906391-448.

23           16. Attached hereto as Exhibit 15 is a true and correct copy of an article by Carl  
24 Shapiro entitled "Navigating the Patent Thicket: Cross Licenses, Patent Pools, and Standard-  
25

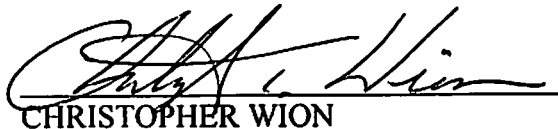
1 Setting,” in Adam B. Jaffe et al., *Innovation Policy and the Economy* (2001), produced in the  
2 above-captioned case at MS-MOTO\_1823\_00000908122-55.

3 17. Attached hereto as Exhibit 16 is a true and correct copy of a report by the  
4 Federal Trade Commission entitled *The Evolving IP Marketplace: Aligning Patent Notice and*  
5 *Remedies With Competition* (March 2011) (online at  
6 <http://www.ftc.gov/os/2011/03/110307patentreport.pdf>), produced in the above-captioned case  
7 at MS-MOTO\_1823\_00002279495-803.

8 18. Attached hereto as Exhibit 17 is a true and correct copy of the August 22, 2012  
9 deposition transcript of Roger S. Smith, taken in the above-captioned case.

10 I declare under penalty of perjury under the laws of the United States of America that  
11 the foregoing is true and correct.

12 DATED this 5<sup>th</sup> day of September, 2012 in Seattle, Washington.

13   
14 CHRISTOPHER WION

**CERTIFICATE OF SERVICE**

I, Linda Bledsoe, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.
2. On the 5<sup>th</sup> day of September, 2012, I caused the preceding document to be served on counsel of record in the following manner:

**Attorneys for Motorola Solutions, Inc., and Motorola Mobility, Inc.:**

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\_\_\_\_ Facsimile  
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8 DATED this 5<sup>th</sup> day of September, 2012.

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LINDA BLEDSOE

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